

APPEAL NO. 040796  
FILED JUNE 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 15, 2004. The hearing officer determined that the claimant was entitled to supplemental income benefits (SIBs) for the first eight compensable quarters. The appellant (carrier herein) files a request for review challenging several of the hearing officer's factual findings as being contrary to the evidence and arguing that the hearing officer erred in concluding the claimant was entitled to SIBs for quarters one through eight. There is no response from the claimant to the carrier's request for review in the appeal file.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criteria in issue are whether the claimant made a good faith effort to obtain employment commensurate with his ability to work and whether the claimant's unemployment was a direct result of his impairment during the qualifying periods for the first eight quarters. The claimant asserted that he had no ability to work due to his compensable injury during the qualifying periods for the first seven quarters. In regard to the eighth quarter the claimant contended that he met the good faith requirement pursuant to Rule 130.102(d)(2) by satisfactorily participating in a vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC). The hearing officer found that the claimant was unable to work in any capacity due to the impairment from his compensable injury during the qualifying period for quarters one through seven. The carrier challenges this finding and argues that the claimant did not meet the requirements of Rule 130.102(d)(4), because the claimant failed to submit a medical narrative showing how his compensable injury caused an inability to work during the relevant qualifying periods, and because there is credible medical evidence that the claimant had an ability to work with restrictions during the relevant qualifying periods. Whether a claimant satisfied the good faith requirement for SIBs entitlement is a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). In his decision the hearing officer points to the specific medical evidence upon which he based his finding that the claimant was totally unable to work. The hearing officer also stated that he did not believe the report of the carrier's doctor showed an ability to work

because this doctor failed to take into account the psychological component of the claimant's injury. We conclude that the hearing officer's finding of inability to work during the qualifying periods for the first seven quarters is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Whether or not the claimant satisfactorily participated in a TRC-sponsored rehabilitation program is also a question of fact. The hearing officer based his finding that the claimant did so during the qualifying period for the eighth quarter upon a letter from the TRC and the testimony of the claimant. We perceive no error in this finding.

We have stated that a finding of "direct result" is sufficiently supported by evidence that an injured employee sustained an injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation Commission Appeal No. 950376, decided April 26, 1995; Texas Workers' Compensation Commission Appeal No. 950771, decided June 29, 1995. Applying the standard of review discussed above, we find sufficient evidence to support the hearing officer's finding of direct result.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT PARNELL  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231.**

---

Gary L. Kilgore  
Appeals Judge

CONCUR:

---

Chris Cowan  
Appeals Judge

---

Margaret L. Turner  
Appeals Judge